

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-07-062

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF AMERICAN STANDARD INSURANCE COMPANY OF WISCONSIN,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of American Standard Insurance Company of Wisconsin (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated November 17, 2006 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on November 17, 2006, the Division completed a market conduct examination of the Respondent. The period of examination was July 1, 2003 to June 30, 2004. In accordance with § 10-1-203(1), C.R.S., the scope of the market conduct examination of the Respondent was limited to company operations and management, complaints, underwriting and rating, and claims practices.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-

204(1), C.R.S.

5. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, any and all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Failure of the Company's surcharge rating rules to comply with Colorado insurance law. The Respondent shall provide evidence that it has revised its surcharge rating rules to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue B concerns the following violation: Failure, in some cases, to provide insureds with a notice of premium increase. The Respondent shall provide evidence that it has implemented the necessary changes to provide the appropriate notification to all insureds whose policies are surcharged to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
11. Issue C concerns the following violation: Failure, in some cases, to offer a named driver exclusion when non-renewing a private passenger automobile policy. The Respondent shall provide evidence that it has revised its procedures to ensure that named driver exclusions are offered on all applicable policies considered for non-renewal in compliance with Colorado insurance law.
12. Issue D concerns the following violation: Failure, in some cases, to comply with Colorado insurance law regarding the subrogation of PIP claims. The Respondent shall provide evidence that it has reviewed its subrogation procedures of PIP

claims and has implemented the necessary changes to ensure compliance with Colorado insurance law. Additionally, Respondent shall perform a self audit of all claims involving the subrogation of PIP claims beginning with July 1, 2003 to March 19, 2007. Respondent shall submit a summary of the findings to the Division on or before June 18, 2007.

13. Issue E concerns the following violation: Failure, in some cases, to pay PIP claims within the required time period. The Respondent shall provide evidence that it has reviewed its procedures for processing PIP claims and has implemented the necessary changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
14. Pursuant to § 10-1-205(3)(d), C.R.S., Respondent shall pay a civil penalty to the Division in the amount of five thousand five hundred and 00/100 dollars (\$5,500.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin no. 1-98, issued on January 1, 1998.
15. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits with the Division executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.
16. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with the Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
17. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions as provided for by law.

18. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated November 17, 2006, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 19th day of March, 2007.




Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF CERTIFIED MAILING

I hereby certify that on the 19th day of March, 2007, I caused to be deposited the **FINAL AGENCY ORDER No. O-07-062 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF AMERICAN STANDARD INSURANCE COMPANY OF WISCONSIN**, in the United States mail via certified mailing with proper postage affixed and addressed to:

Mr. David R. Anderson, President
American Standard Insurance Company of Wisconsin
6000 American Parkway
Madison, WI 53783-0001

John Horak, Compliance – Mail Stop Q10C
American Standard Insurance Company of Wisconsin
6000 American Parkway
Madison WI 53783-0001



Dolores Arrington, AIE, AIRC, ACS, MA
Market Regulation Section
Division of Insurance